

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

ERIC M. PEAGLER,)	
)	
Petitioner,)	
)	
v)	Civil Action No. 2:07cv703-MHT
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

ORDER

On July 30, 2007, petitioner Eric M. Peagler filed a motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255 in which he challenges his conviction and sentence for conspiracy to distribute and possess with intent to distribute cocaine, cocaine base, and marijuana.¹ Upon review of Peagler's motion, the undersigned concludes that a limited response from the government is necessary to determine whether Peagler is now time-barred from filing the instant action. Accordingly, the CLERK is hereby DIRECTED to serve a copy of Peagler's § 2255 motion upon the United States Attorney for the Middle District of Alabama. The United States Attorney is

ORDERED to file a response to Peagler's motion within thirty (30) days from the

¹Although the instant motion was date-stamped "received" in this court on August 3, 2007, it was signed by Peagler on July 30, 2007. Under the "mailbox rule," a *pro se* inmate's motion is deemed filed the date it is delivered to prison officials for mailing, here, presumptively July 30, 2007, the date Peagler signed it. See *Houston v. Lack*, 487 U.S. 266, 271-72 (1988); *Adams v. United States*, 173 F.3d 1339, 1340-41 (11th Cir. 1999); *Garvey v. Vaughn*, 993 F.2d 776, 780 (11th Cir. 1993).

date of this order focusing entirely on the applicability of the period of limitation in this case pursuant to the provisions contained in 28 U.S.C. § 2255.

The government is advised that its response should contain a detailed procedural history, all relevant records, and citations to applicable case law from which the court can determine the applicability of the limitation period contained in 28 U.S.C. § 2255. Should the government's response to the instant order indicate that this case must proceed on the merits, the government will be given an adequate opportunity to file a response addressing the claims presented in Peagler's § 2255 motion.

Done this 6th day of August, 2007.

/s/Charles S. Coody
CHARLES S. COODY
CHIEF UNITED STATES MAGISTRATE JUDGE